

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MARIA LUISA G. RAMIREZ, *et al.*

versus

FREDDIE RECORDS, INC., *et al.*

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CIVIL ACTION NO. H-08-801

AMENDED FINAL JUDGMENT

On the 5th day of April, 2010, the above-styled and numbered case came on for trial. Both sides appeared and announced ready for trial, and the case was tried to a jury, one having been timely requested. At the conclusion of Plaintiff's case in chief, Defendant moved for judgment as a matter of law as to Plaintiff's claim. Defendant's motion was denied. Jury questions were submitted to the jury on Plaintiff's copyright claim.

The jury questions and answers were as follows:

JURY QUESTION NO. 1

Do you find by a preponderance of the evidence that the Defendants listed below are liable for copyright infringement for their acts on or after January 14, 2005 as to Plaintiff Tony Guerrero?

Answer:

- | | | | |
|----|---------------------------------|---------------------|--------------------|
| a. | Defendant Freddie Records, Inc. | Yes: <u> X </u> | No: <u> </u> |
| b. | Defendant Freddie Martinez, Sr. | Yes: <u> </u> | No: <u> X </u> |
| c. | Marfre Music Publishing | Yes: <u> X </u> | No: <u> </u> |
| d. | Defendant Freddie Martinez, Jr. | Yes: <u> </u> | No: <u> X </u> |
| e. | Defendant John Martinez | Yes: <u> </u> | No: <u> X </u> |
| f. | Defendant JoAnn Martinez | Yes: <u> </u> | No: <u> X </u> |
| g. | Defendant Marc J. Martinez | Yes: <u> </u> | No: <u> X </u> |

Proceed to Question No. 2.

JURY QUESTION NO. 2

Do you find by a preponderance of the evidence that the Defendants listed below are liable for copyright infringement for their acts on or after January 14, 2005 as to Plaintiff Maria Ramirez?

Answer:

- | | | | |
|----|---------------------------------|---------------------|--------------------|
| a. | Defendant Freddie Records, Inc. | Yes: <u> X </u> | No: <u> </u> |
| b. | Defendant Freddie Martinez, Sr. | Yes: <u> </u> | No: <u> X </u> |
| c. | Marfre Music Publishing | Yes: <u> X </u> | No: <u> </u> |
| d. | Defendant Freddie Martinez, Jr. | Yes: <u> </u> | No: <u> X </u> |
| e. | Defendant John Martinez | Yes: <u> </u> | No: <u> X </u> |

f. Defendant JoAnn Martinez Yes: _____ No: X _____

g. Defendant Marc J. Martinez Yes: _____ No: X _____

Proceed to the next page.

If you answered “yes” as to any Defendant in Question No. 1, please answer Question No. 3.

If you answered “no” as to all Defendants in Question No. 1, skip Question No. 3 and proceed to the next page.

JURY QUESTION NO. 3

What sum of money, if paid now in cash, would fairly and reasonably compensate Plaintiff Tony Guerrero for his injuries, if any, that resulted from Defendants’ actions?

Consider the elements of damages listed below and none other.

Answer separately, in dollars and cents for damages, if any. Do not include interest on any amount of damages you find.

a. Compensatory Damages ANSWER: \$ 58,178.00 _____

b. Defendants’ profits attributable to copyright infringement
ANSWER: \$ 6,322.00 _____

Please proceed to the next page.

If you answered “yes” as to any Defendant in Question No. 2, please answer Question No. 4.

If you answered “no” as to all Defendants in Question No. 2, skip Question No. 4 and sign the Certificate on the last page.

JURY QUESTION NO. 4

What sum of money, if paid now in cash, would fairly and reasonably compensate Plaintiff Maria Ramirez for her injuries, if any, that resulted from Defendants' actions?

Consider the elements of damages listed below and none other.

Answer separately, in dollars and cents for damages, if any. Do not include interest on any amount of damages you find.

a. Compensatory Damages ANSWER \$ __112,671.00__

b. Defendants' profits attributable to copyright infringement
ANSWER \$ __21,197.00__

The Court finds that the above jury verdict reflects the Parties' Joint Pre-Trial Memorandum, in which the Parties agreed that Plaintiffs sued Freddie Martinez, Sr. individually and d/b/a Marfre Music Publishing, and that "Marfre Music Publishing is a d/b/a used by Freddie Martinez, Sr.." (Instrument No. 75, at 2, 4). The question of whether Freddie Martinez, Sr. is liable as an individual is distinct from the question of whether he is liable d/b/a Marfre Music Publishing. *See Grabes v. Reinhard Bohle Machine Tools, Inc.*, 381 S.W.2d 395, 398 (Tex. App. – Corpus Christi 1964). Thus, judgment may be entered against Freddie Martinez d/b/a Marfre Music Publishing even though the jury found that Freddie Martinez, Sr. is not liable in his individual capacity. *See id.*

However, when an individual is doing business under an assumed name, a judgment rendered against the unincorporated association is binding on the individual. *Old Republic Ins. Co., v. Ex-Im Serv. Corp.*, 920 S.W.2d 393, 396 (Tex. App. – Houston [1st Dist.] 1996). Because

Marfre Music Publishing is a d/b/a of Freddie Martinez, Sr., Freddie Martinez, Sr. is liable for the judgment against Marfre Music Publishing.

Based on the verdict of the jury, the Court **ENTERS** the following judgment:

Judgment is granted in favor of Plaintiff Tony Guerrero and against Defendants Freddie Records, Inc. and Freddie Martinez, Sr. d/b/a Marfre Music Publishing in the amount of \$64,510.00. Judgement is granted in favor of Plaintiff Maria Ramirez and against Defendants Freddie Records, Inc. and Freddie Martinez, Sr. d/b/a Marfre Music Publishing in the amount of \$133,868.00. Plaintiffs are also awarded attorney's fees in the amount of \$288,055.25 against Defendants Freddie Records, Inc. and Freddie Martinez, Sr. d/b/a Marfre Music Publishing.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED on this the 10th day of April, 2011, at Houston, Texas.



VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE